

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

GARCEL FAMILY, LLC, §
§
Plaintiff §
§
v. § CIVIL ACTION NO. 7:21-cv-134
§
MT. HAWLEY INSURANCE COMPANY, §
§
Defendant. §
§

DEFENDANT'S NOTICE OF REMOVAL

Defendant Mt. Hawley Insurance Company (“Mt. Hawley”) files this Notice of Removal of this action from the 206th Judicial District Court of Hidalgo County, Texas to the United States District Court for the Southern District of Texas, McAllen Division, the district and division in which the 206th Judicial District is located. This Notice of Removal is filed pursuant to 28 U.S.C. §§ 1441 and 1446. In support hereof, Mt. Hawley respectfully shows this Court as follows:

1. Plaintiff Garcel Family, LLC (“Plaintiff”) commenced an action against Mt. Hawley in the 206th Judicial District of Hidalgo County, Texas, entitled *Garcel Family, LLC v. Mt. Hawley Insurance Company*, pending as Case No. C-0745-21-D (the “State Court Case”).
2. On March 9, 2021, Mt. Hawley was served with Plaintiff’s Original Petition (“Petition”) in the State Court Case. *See Exhibit B* (Service Confirmation). As such, removal is timely because thirty (30) days have not elapsed since Mt. Hawley first received the Petition, as required by 28 U.S.C. § 1446(b).
3. A copy of this Notice of Removal will be filed with the State of Texas Judicial District Court in Hidalgo County, and a copy of this Notice of Removal will also be served on

Plaintiff. Mt. Hawley is, contemporaneously with the filing of this Notice, giving written notice of filing of this Notice of Removal with the clerk of the 206th District Court of Hidalgo County, Texas.

4. An index of all documents, a copy of the state docket sheet, copies of the citation and each document filed in the state court action, and a list of counsel of record are attached hereto as **Exhibits A-E**.

5. Mt. Hawley requests a trial by jury.

6. Mt. Hawley has filed contemporaneously a civil cover sheet and a supplementary civil cover sheet. There are no “related cases,” as defined by LR 3.3(b)(3) or (b)(4).

Ground for Removal: Diversity

7. This Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1332, in that this is a civil action where the matter in controversy exceeds \$75,000 and is between citizens of different States.

A. The amount in controversy exceeds the federal minimum jurisdictional requirements.

8. Plaintiff’s Petition in the State Court Case contends that its property sustained damage covered under a policy of property insurance issued by Mt. Hawley, Policy No. GPK0007947 (the “Policy”). *See Exhibit C* (Petition) at ¶¶ 5-8. Plaintiff’s Petition further alleges that Mt. Hawley breached the Policy by failing to pay Plaintiff’s claim. *See id.* at ¶¶ 23-24. Finally, Plaintiff’s Amended Petition alleges the amount of its claimed loss, and the amount it seeks to recover from Mt. Hawley, exceeds \$250,000. *See id.* at ¶ 47.

9. For all of these reasons, the amount in dispute exceeds \$75,000, exclusive of interest and costs.

B. There is complete diversity between Plaintiff and Mt. Hawley.

10. For purposes of determining diversity, the citizenship of a limited liability company and other non-incorporated entities is determined by the citizenship of all its members. *Trafigura AG v. Enter. Products Operating LLC*, 995 F. Supp. 2d 641, 646 (S.D. Tex. 2014); *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1079-80 (5th Cir. 2008).

11. Plaintiff was at the time of the filing of this action, has been at all times since, and still is a Texas limited liability company whose members are Gary Ahlman and Celina Ahlman, who are both individual residents and citizens of Texas. As such, Plaintiff is a citizen of the State of Texas for purposes of determining diversity jurisdiction, and not a citizen of the State of Illinois.

12. Defendant Mt. Hawley is a corporation organized under the laws of Illinois, with its principal place of business in Illinois. Accordingly, Mt. Hawley is a citizen of the State of Illinois for purposes of determining diversity jurisdiction, and not a citizen of the State of Texas.

13. Complete diversity exists in this case and removal is proper because Plaintiff is a citizen of Texas, and Mt. Hawley is a citizen of Illinois.

WHEREFORE, Defendant Mt. Hawley Insurance Company prays that the above-described action now pending in the 206th District Court of Hidalgo County, Texas, be removed to this Court.

Respectfully submitted,

/s/ Greg K. Winslett

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**ATTORNEYS FOR MT. HAWLEY
INSURANCE COMPANY**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing instrument is being served upon counsel for Plaintiff, via certified mail, return receipt requested, in accordance with the Federal Rules of Civil Procedure, on this 8th day of April 2021, as follows:

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Attorneys for Plaintiff

/s/ Greg K. Winslett

Greg K. Winslett